

days and review any comments submitted thereto. FTA may contact the grantee or subgrantee that submitted the request for relief, or any party that submits comments to the docket, to obtain more information prior to making a decision.

(c) FTA shall then post a decision to the Emergency Relief Docket. FTA's decision will be based on whether the petition meets the criteria for use of these emergency procedures, the substance of the request, and the comments submitted regarding the petition.

(d) If FTA fails to post a response to the request for relief to the docket within three business days, the grantee or subgrantee may assume its petition is granted until and unless FTA states otherwise.

§ 601.47 Review Procedures.

(a) FTA reserves the right to reopen any docket and reconsider any decision made pursuant to these emergency procedures based upon its own initiative, based upon information or comments received subsequent to the three business day comment period, or at the request of a grantee or subgrantee upon denial of a request for relief. FTA shall notify the grantee or subgrantee if it plans to reconsider a decision.

(b) FTA decision letters, either granting or denying a petition, shall be posted in the appropriate Emergency Relief Docket and shall reference the document number of the petition to which it relates.

PART 604—CHARTER SERVICE

Subpart A—General

Sec.

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APPENDIX A TO PART 604

AUTHORITY: 49 U.S.C. 5323(d); 23 U.S.C. 103(e)(4); 142(a); and 142(c); and 49 CFR 1.51.

SOURCE: 52 FR 11933, Apr. 13, 1987, unless otherwise noted.

Subpart A—General

§ 604.1 Purpose.

The purpose of this part is to implement section 3(f) and section 12(c)(6) of the FT Act.

§ 604.3 Applicability.

This part applies to all applicants and recipients of Federal financial assistance under:

(a) Sections 3 (excluding section 16(b)(2)), 5, 9A, 9 or 18 of the FT Act; or

(b) Sections 103(e)(4), 142(a), or 142(c) of Title 23 United States Code which permit the use of Federal-Aid Highway funds to purchase buses.

§ 604.5 Definitions.

(a) All definitions in the FT Act (at 49 U.S.C. 1608) are applicable to this part, except as may otherwise be provided in this section.

(b) *The Acts* means the FT Act and those parts of Title 23 United States Code, 23 U.S.C. 103(e)(4), 142(a) and 142(c), that provide for assistance to public bodies for purchasing buses.

(c) *Administrator* means the Administrator of FTA or his or her designee.

(d) *Categories of Revenue Vehicle* means bus or van.

(e) *Charter Service* means transportation using buses or vans, or facilities funded under the Acts of a group of persons who pursuant to a common purpose, under a single contract, at a fixed charge (in accordance with the carrier's tariff) for the vehicle or service, have acquired the exclusive use of the vehicle or service to travel together under an itinerary either specified in advance or modified after having left the place of origin. This definition includes the incidental use of FTA funded equipment for the exclusive transportation of school students, personnel, and equipment.

(f) *Chief Counsel* means the Chief Counsel of FTA.

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(g) *Days* means calendar days in subpart A and Federal working days in subpart B.

(h) *Designated Official* means the applicant's and recipient's employee authorized to file applications on behalf of the applicant or to enter into agreements on behalf of the recipient.

(i) *Incidental Charter Service* means charter service which does not: (1) interfere with or detract from the provision of the mass transportation service for which the equipment or facilities were funded under the Acts; or (2) does not shorten the mass transportation life of the equipment or facilities.

(j) *Interested Party* means an individual, partnership, corporation, association, or public or private organization that has a financial interest which is adversely affected by the act or acts of a recipient regarding charter service.

(k) *Non-urbanized area* means an area with a population of less than 50,000 people.

(l) *Recipient* means one that has received or is receiving Federal financial assistance under the Acts. The term includes subrecipients of a recipient, subrecipients in FTA's State administered programs, public bodies that receive assistance that will be passed on to another public or quasi-public body, any operator for a recipient, whether publicly or privately owned, and may include lessees of federally assisted buses and other equipment. For any FTA State administered program, the State is the recipient.

(m) *State Administered Program* means any FTA grant program in which the State is the recipient of funds, passes the funds to subrecipients, and administers the program for FTA.

(n) *FT Act* means the Federal Mass Transit Act of 1964, as amended, 49 U.S.C. 1601 *et seq.*

(o) *FTA* means the Federal Transit Administration.

(p) *Willing and able* means having the desire, having the physical capability of providing the categories of revenue vehicles requested, and possessing the legal authority, including the necessary safety certifications, licenses and other legal prerequisites, to pro-

vide charter service in the area in which it is proposed to be provided.

§ 604.7 Charter agreement.

(a) Every applicant for financial assistance under sections 3 (excluding section 16(b)(2)), 5, 9A, 9 or 18 of the FT Act, or under 23 U.S.C. 103(e)(4), 142(a) or 142(c), must include two copies of a charter bus agreement signed by the applicant's designated official with each grant application submitted to FTA after May 13, 1987. For FTA's State administered programs, the State is the applicant.

(b) The text of the agreement must be as follows:

I, (name), (title), agree that (name of applicant) and all recipients through (name of applicant) will provide charter service that uses equipment or facilities provided under the Federal Mass Transit Act of 1964, as amended (49 U.S.C. 1601 *et seq.*) or under 23 U.S.C. 103(e)(4), 142(a) or 142(c) (the Acts) only to the extent that there are no private charter service operators willing and able to provide the charter service that (name of applicant) and all recipients through (name of applicant) desire to provide unless one or more of the exceptions in 49 CFR 604.9 applies.

I further agree that (name of applicant) and all recipients through (name of applicant) will comply with the provisions in 49 CFR part 604 before they provide any charter service using equipment or facilities provided under the Acts, that the requirements of 49 CFR part 604 will apply to any such charter service that is provided, and that the definitions in 49 CFR part 604 apply to this agreement.

Applicant

Name

Title

Date

Federal Transit Administration

Name

Title

Date